

PT 97-17

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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MARION MEMORIAL HOSPITAL	)		
Applicant	)		
	)	Docket #	94-100-17
v.	)		
	)	Parcel Index	#07-18-368-006
THE DEPARTMENT OF REVENUE	)		
OF THE STATE OF ILLINOIS	)		

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RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held at 2309 West Main Street, Marion, Illinois, on June 24, 1996 to determine whether or not Williamson County Parcel No. 07-18-368-006 qualified for exemption from real estate taxation for the 1994 assessment year.

Mr. Roger Karcher, director of accounting for Marion Memorial Hospital, and Ms. Rose Johnson, chairman of the hospital auxiliary, were present and testified on behalf of Marion Memorial Hospital.

The issues in this matter include first whether the Marion Memorial Hospital (hereinafter referred to as the "Hospital") owned this parcel during the 1994 assessment year. The second issue is whether the Hospital is owned by the City of Marion (hereinafter referred to as the "City"). The third issue is whether this parcel is within the corporate limits of the City. The fourth issue is whether the lease of a portion of the building on this parcel to the Illinois Department of Rehabilitation Services (hereinafter referred to as

"IDORS"), was entered into on or before January 1, 1994. The final issue is whether the terms of this lease bind IDORS to pay the taxes on the portion of the building on this parcel occupied by IDORS. Following the submission of all of the evidence and a review of the record, it is determined that the Hospital owned this parcel during the 1994 assessment year. It is also determined that the Hospital is owned by the City. It is further determined that this parcel is within the corporate limits of the City. It is also determined that the lease between the Hospital and IDORS was entered into before January 1, 1994, and that the terms of the lease did not bind the IDORS to pay the taxes on the portion of the building on this parcel occupied by the IDORS. This parcel and the building thereon, therefore qualify for exemption during 1994.

Findings of Fact:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that 10% of the building and the land beneath of Williamson County Parcel No. 07-18-368-006 is exempt and 90% is taxable for the 1994 assessment year, was established by the admission in evidence of Department's Exhibits numbered 1 through 5B.

2. The Hospital acquired this parcel by a warranty deed dated October 30, 1992. (Dept. Ex. No. 1D)

3. The Hospital is a municipal hospital. The bylaws of the Hospital recite that the Hospital is owned by the City pursuant to the authority of Ordinance No. 254, dated March 15, 1950. (Tr. pp. 10 & 11, Appl. Ex. No. 3)

4. This parcel is located within two blocks of the public square in downtown Marion. (Dept. Ex. No. 1B) The deed recites that this parcel is located in the second survey of the town, now city, of Marion. (Dept. Ex. No. 1D)

5. This parcel is improved with a two story building with a basement.  
(Dept. Ex. No. 1)

6. During 1994, 2047 square feet of the basement of the building on this parcel was used for the storage of hospital records and some small items of equipment. The remainder of the basement was vacant during that year. (Tr. pp. 9 & 10, Appl. Ex. No. 1 p. 3)

7. The second floor of the building on this parcel was vacant and unused during the 1994 assessment year. (Tr. p. 9, Appl. Ex. No. 1 p. 2)

8. During 1994, 2810 square feet of the first floor of the building on this parcel was leased by the Hospital to IDORS. (Appl. Ex. No. 1 p. 1)

9. The lease between the Hospital and IDORS is dated July 1, 1993. The term of this lease is from July 1, 1993, through June 30, 1998. This lease does not contain any provision concerning taxes. (Dept. Ex. No. 1E)

10. During 1994, 2817 square feet of the first floor of this building was used by the Hospital auxiliary thrift shop. (Appl. Ex. No. 1 p. 1)

11. The thrift shop operated under the auspices of the Hospital and used the area of this building for the thrift shop without paying rent to the Hospital. (Tr. pp. 9 & 12)

12. The thrift shop, during 1994, operated Monday through Friday from 10:00 AM to 4:00 PM. The thrift shop only sold donated goods. It did not purchase items for resale and did not take goods on consignment. The thrift shop had no paid employees, but operated using approximately 28 volunteers. All of the proceeds of the sales at the thrift shop are turned over to the Hospital. (Tr. pp. 11 & 12)

#### Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-60 provides in part as follows:

Also exempt are:

(c) all property owned by any city or village located within its incorporated limits.

...and (iii) for a lease entered into before the effective date of Public Act 87-1280, if the terms of the lease do not bind the lessee to pay the taxes on the leased property....

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

The parcel here in issue, I conclude, is located within the corporate limits of the City. The Hospital which owns this parcel I conclude, is owned and operated by the City. The operation of a hospital is a proper municipal purpose in Illinois. See 65 **ILCS** 5/11-22-1 et seq.

Public Act 87-1280 became effective on January 1, 1994. The lease here in issue became effective before that date, so that subsection (iii) would be the controlling provision. Since there is no provision in the lease requiring the lessee, IDORS, to pay the taxes, the portion of the first floor of the building leased by the Hospital to IDORS qualifies for exemption.

I therefore conclude that all of this parcel and the building thereon qualified for exemption during all of the 1994 assessment year because it is municipally owned property, located within the corporate limits of the municipality, and the terms of the lease do not negate a portion of the exemption.

I therefore recommend that Williamson County Parcel No. 07-18-368-006 be exempt from real estate taxation for the 1994 assessment year.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
May 21, 1997